

FILED  
UNITED STATES COURT OF APPEALS

2006 FEB 27 PM 1 41  
FOR THE NINTH CIRCUIT

PATRICK E. DUFFY, CLERK

BY

**FILED**

**FEB 22 2006**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CLIFFORD G. BIRDINGROUND,

Defendant - Appellant.

DEPUTY CLERK  
No. 05-30430

D.C. No. CR-02-00049-RFC  
District of Montana,  
Billings

ORDER

Before: GOODWIN and RAWLINSON, Circuit Judges.

Appellant's motion for bail pending appeal is granted. Appellant has shown, by clear and convincing evidence, that appellant is not likely to flee or to pose a danger to the safety of any other person or the community if released and has also shown that the appeal raises a "substantial question" of law or fact that is likely to result in reversal, an order for a new trial, or a sentence that does not include a term of imprisonment, on all counts on which imprisonment has been imposed. *See* 18 U.S.C. § 3143(b); *United States v. Handy*, 761 F.2d 1279, 1283 (9th Cir. 1985).

The matter is remanded to the district court for the limited purpose of establishing appropriate conditions of release.

05-30430

The briefing schedule established previously shall remain in effect.